

Application No. 09/676,363
Docket No. 1578US3

Art Unit 3762
Examiner: L. Deak

REMARKS

In the Official Action dated October 3, 2003 restriction requirement was imposed between two "species". The first "species" including claims 1-10 and the second "species" including claims 11-26. Applicant traverses the restriction requirement, because examining 26 claims is not an undue burden on the Examiner.

Pursuant to MPEP §803 a restriction requirement is only proper if (1) the claimed inventions are independent and distinct and (2) there would be a serious burden on the examiner if restriction is not required. At least the latter requirement is not met. Indeed, the Examiner states that the exact same class, 604/6.16, would need to be searched for all claims pending in the case. Applicants are entitled to claim a reasonable number of species in a single application. 37 C.F.R. 1.141. The burden is on the Examiner to establish that restriction is proper, and the Examiner has not met this burden.

Imposing a restriction requirement between the two "species" will simply lead to duplicative searching that will increase the cost to Applicants and further strain the Patent and Trademark Office's limited resources. Accordingly, Applicants respectfully request that the Examiner withdraw the restriction requirement and examine the pending claims.

Although Applicants believe that restriction is improper and unnecessary, in order to make this response complete, Applicants provisionally elect Species II, which includes claims 11-26.

Respectfully submitted,



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